

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 455 Tax Exemptions for First Responders and Surviving Spouses  
**SPONSOR(S):** Ways & Means Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Dobson	Langston

### SUMMARY ANALYSIS

In November of 2016, Florida voters approved an amendment to the state constitution that allows the legislature to provide ad valorem tax relief to certain totally and permanently disabled first responders. This bill implements that amendment by providing a 100 percent homestead tax exemption to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty. The bill also extends a 100 percent exemption to the surviving spouse of a totally and permanently disabled first responder, provided certain conditions are met.

The bill defines "first responder" as a law enforcement officer, correctional officer, firefighter, emergency medical technician or paramedic, who is employed full-time, part-time or serves on a volunteer basis.

The bill specifies that "disability" does not include chronic conditions unless the chronic condition was solely caused by injury in the line of duty.

The bill specifies that a first responder who provides the following documents to his or her local property appraiser is entitled to exemption:

- Certification of total and permanent disability from two Florida-licensed physicians;
- Certification from the first responder's former employer that the injury giving rise to disability occurred in the line of duty; and
- Any existing documentation of the injury or incident that gave rise to the first responder's total and permanent disability.

The deadline to apply for exemption from taxes levied in 2017 is August 1<sup>st</sup>, 2017. However, property appraisers may accept untimely filed applications if certain conditions are met. The deadline to apply for exemption from taxes levied in 2018 and beyond is March 1 of each year.

The Revenue Estimating Conference determined the bill will have a statewide, annual impact of -\$4.5 million on local government property tax revenues beginning in FY 2017-18, assuming current tax rates.

The bill takes effect upon becoming law.

**This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. Present Situation

##### Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value (i.e., market value) for ad valorem tax purposes,<sup>3</sup> and it provides for specified assessment limitations, property classifications and exemptions.<sup>4</sup> Property appraisers calculate assessed value by adjusting just value in accordance with any applicable assessment limitations or usage classifications. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup> Each year, local government governing boards levy millage rates (i.e. tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets. Property appraisers must notify property owners of the adopted millage rates by mailing out notices of proposed property taxes, commonly referred to as truth in millage (TRIM) notices.<sup>6</sup>

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>7</sup>

##### *Homestead Exemption*

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads on assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

##### *Exemptions Related to Disabled Persons or First Responders*

Current law provides several exemptions related totally and permanently disability or first responders:

- Homestead exemption for certain totally and permanently disabled veterans or their surviving spouse;<sup>8</sup>
- Homestead exemption for surviving spouses of first responders who die in the line of duty;<sup>9</sup>
- Homestead exemption for disabled veterans confined to wheelchairs;<sup>10</sup>

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<sup>1</sup> Fla. Const. art. VII, s. 1(a).

<sup>2</sup> Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Fla. Const., art. VII, s. 4.

<sup>4</sup> Fla. Const. art. VII, ss. 3, 4, and 6.

<sup>5</sup> s. 196.031, F.S.

<sup>6</sup> s. 200.065(2)(b), F.S.

<sup>7</sup> *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>8</sup> ss. 196.081(1) and (3), F.S.

<sup>9</sup> s. 196.081(6), F.S.

<sup>10</sup> s. 196.091, F.S.

- Homestead exemption for certain totally and permanently disabled persons;<sup>11</sup> and
- Property to the value of \$500 owned by widows, widowers, and blind or totally and permanently disabled persons.<sup>12</sup>

Section 196.101, F.S., relating to the annual application process for property tax exemptions, requires applications for several homestead-related exemptions to include the social security number of the applicant and the applicant's spouse, if any.

### 2016 Constitutional Amendment

In November 2016, Florida electors approved a constitutional amendment that allows the legislature to provide homestead tax relief to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty.<sup>13</sup> The amendment specifies that a causal connection between an injury and service in the line of duty may not be presumed, and that the term "disability" does not include chronic disease, unless injury in the line of duty was the sole cause of the disease.

### **Effect of Proposed Changes**

#### Exemption for Totally and Permanently Disabled First Responders

The bill creates statute that completely exempts from all homestead taxes first responders who are totally and permanently disabled due to an injury sustained in the line of duty. The term "first responders" refers to full-time, part-time and volunteer law enforcement officers, firefighters, paramedics or emergency medical technicians as those terms are defined in statute.<sup>14</sup>

The bill defines "disabled" as a physical or cognitive impairment that constitutes or results in a substantial impediment to employment as a first responder. The term does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

The bill defines "In the line of duty" as:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing a rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in an authorized training exercise related to any of the events or activities enumerated above.

The constitutional language authorizing an exemption for first responders imposes two requirements that must be met in order to qualify for exemption. First, applicants must be totally and permanently disabled. Accordingly, the bill provides that first responders can prove their status as totally and permanently disabled by submitting certification letters from two professionally unrelated physicians. The second constitutional requirement is that causal connection between disability and service in the line of duty cannot be presumed but must be determined in accordance with general law. To that end, the bill permits first responders to prove causal connection between their disability and service in the line of duty by submitting a letter from a representative of the entity who employed the first responder when the injury occurred. Among other information, the employer letter must include a statement that

<sup>11</sup> s. 196.101, F.S.

<sup>12</sup> s. 196.202, F.S.

<sup>13</sup> See Article VII, section 6(f)(3) of the Florida Constitution.

<sup>14</sup> The terms are respectively defined in ss. 943.10, 633.102, 401.21, F.S.

the first responder's injury was directly and proximately caused by service in the line of duty, without willful negligence by the first responder, and that the injury is the sole cause of the first responder's total and permanent disability. The employer letter must be accompanied by any existing supporting documentation such as an incident report or insurance claim.

The exemption applies to taxes levied on or after January 1, 2017.

### Spousal Exemption

The bill allows the spouse of a totally and permanently disabled first responder to maintain the exemption if the first responder predeceases the spouse. The bill also allows the surviving spouse of a totally and permanently disabled first responder to transfer the exemption to a different homestead property. The surviving spouse exemption remains in effect as long as the new residence is used as the surviving spouse's primary residence and he or she does not remarry.

### Application Procedures

The deadline to apply for exemption from taxes levied in 2017 is August 1, 2017. For taxes levied in 2018 and beyond, the application deadline is March 1 of each year.<sup>15</sup> The bill allows property appraisers to accept untimely filed applications if the applicant is otherwise qualified for exemption and the applicant produces evidence demonstrating that he or she was unable to apply for exemption in a timely manner. The bill also allows first responders to petition for appeal before value adjustment boards in the event the property appraiser denies an application for exemption. A petition for such an appeal must be filed no later than 25 days after the property appraiser mails TRIM notices.

The bill amends s. 196.011, F.S., to add the new exemption created by this bill to the current list of property tax exemptions, the applications for which must include the applicant's social security number.

The bill takes effect upon becoming a law.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 196.011, F.S., adding the new exemption created by this bill to the current list of property tax exemptions, the applications for which must include the applicant's social security number.

**Section 2.** Creates 196.102, F.S. providing exemptions for totally and permanently disabled first responders and their surviving spouses; prescribes requirements for application; specifies that the deadline for submitting applications for exemption from taxes levied in 2017 is August 1, 2017, and authorizes the Department of Revenue (Department) to adopt emergency rules.

**Section 3.** Limits applicability to taxes levied on or after January 1, 2017.

**Section 4.** Provides that the bill shall take effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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<sup>15</sup> See s. 196.011(1)(a), F.S.  
STORAGE NAME: pcs0455.WMC  
DATE: 3/19/2017

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference determined the bill will have a statewide, annual impact of -\$4.5 million on local government property tax revenues beginning in FY 2017-18, assuming current tax rates.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida constitution may apply because this bill reduces local government's ability to raise ad valorem revenues. However, and exemption may apply if the fiscal impact is insignificant. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill grants the Department of Revenue rulemaking authority to administer the provisions of the bill. The bill also grants emergency rulemaking authority to the Department to administer the application process for the 2017 calendar year. This emergency rulemaking authority expires on August 30, 2018.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**